

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

**In the Matter of**

**Creation of  
a Low Power Radio Service**

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**MM Docket No. 99-25**

**To the Commission:**

**Reply Comments of the Amherst Alliance  
to the Reply Comments of Edward A. Schober**

The Amherst Alliance is a Net-based nationwide citizens' advocacy group for media reform in general and Low Power FM Radio in particular. Amherst has been an active voice in support of LPFM, and in opposition to massive media consolidation, since 1998.

The Amherst Alliance hereby submits Reply Comments to the Reply Comments filed in FCC Docket 99-25 by Edward A. Schober of Haddon Heights, New Jersey. In his May 2, 2003 Reply Comments, Mr. Schober -- an FM translator licensee, who also holds 2 Construction Permits and has filed several pending applications for FM translators in New Jersey, Pennsylvania and New York -- wrote in response to Written Comments that were filed on earlier dates by Colquitt Community Radio (of Moultrie,

Georgia), Nickolaus Leggett (of Reston, Virginia) and Anthony Gray (of Chicago, Illinois).

In its own Reply Comments to Mr. Schober, The Amherst Alliance makes 3 key points:

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**Low Power FM Supporters Are Not Monolithic**

- (1) Currently licensed Low Power FM broadcasters, aspiring Low Power FM

broadcasters and citizen supporters of Low Power FM are not monolithic

in their viewpoints. While they generally agree on the need for translator

reform, they may differ on the details of what kind of reform is needed.

We can assert, unequivocally, that the concerns expressed by Mr. Schober are

*not* applicable to any of the translator reform proposals that have been advanced

by The Amherst Alliance.

**The Amherst Alliance Does Not Advocate Automatic Displacement Of *Truly* Local Translators**

- (2) In the case of The Amherst Alliance, which was the first media reform organization to call for translator reform (back in 1999), it has been our intent from the very beginning to *avoid* the automatic displacement of *truly* local FM translators by Low Power FM stations. We advocate LPFM station displacement of *only* those translators which are functional extensions of an international, national or regional media network.

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Specifically, we believe LPFM stations should have priority solely over satellite-fed translators (commonly known as “satellators”) and “other *long distance* translators”. We have asked the FCC to define the latter as translators which relay programming content that originates more than 50 miles away from the translator.

Amherst has resolutely favored the automatic displacement, by LPFM stations,

of *satellite-fed* translators. However, with respect to *other* “long distance

translators”, we must acknowledge that there have been moderate fluctuations,

regarding how to define such translators, in the consensus opinion of the

Amherst Members.

When Amherst first advocated translator reform, in this very Docket, in 1999,

the proposed definition of a “long distance translator” was a translator fed by

satellite *or* otherwise relaying programming content more than 50 miles.

Later, some Members of Amherst from the Western United States urged

Amherst to adopt a more lenient definition, at least for the Western United

States in general and rural Alaska in particular. By the two thirds majority

that is customarily required for changing an established Amherst policy

position, Amherst Members voted to replace the 50-mile threshold with the

following multiple thresholds:

- (A) 60 miles (100 kilometers) East of the Mississippi River;
- (B) 120 miles (200 kilometers) West of the Mississippi River,
- Except for
- (C) 240 miles (400 kilometers) in areas of Alaska where the translator's service area contours fall completely outside of any Standard Metropolitan Statistical Area (SMSA).

FCC *Nevertheless*, in its deliberations regarding the present phase of

Docket 99-25, Amherst Members have now voted -- by a majority

of 75% to 25% -- to change Amherst's position *back* to the originally

proposed threshold of 50 miles throughout the United States (with the

exception that we could accept a higher threshold in rural portions of Alaska).

The vote was closer West of the Mississippi than East of the Mississippi, but

on both sides of the river a majority backed the uniform 50-mile threshold.

This change in position is *partly* the result of modest turnover in the Amherst

Membership within the Western United States. However, the *greater* factor

is the changing perception of some Westerners who once viewed a 50-mile

as too restrictive for their more scattered populations. Now, looking at the

superheated growth of Las Vegas and other urban areas in the Southwest,

some Westerners who once saw themselves living in “the wide open spaces”

today see themselves as only 5 or 10 years away from suburbanization.

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Given the scarcity of water resources in much of the West, these expectations may never materialize. Still, it cannot be denied that armies of land developers, land speculators, realtors, Chamber of Commerce executives, aspiring first time homeowners and obedient politicians are laboring constantly to convert sand, stone and sagebrush into over-watered lawns, cramped backyards and pavement.

It may be useful for the Commission to know that, over the course of only

a few years, the future foreseen by some Amherst Westerners has changed

dramatically. These Amherst Westerners are now supporting a *national*

50-mile threshold because they see their own lightly developed service areas

rapidly becoming, for better or worse, more like the rest of the nation.

- (3) As for non-satellite translators which are located *less* than 50 miles away

from the nearest point of transmission for their programming, Amherst

believes these *truly* local translators should compete with LPFM stations on

an equal footing. In this evenhanded competition, radio station licenses

should be awarded to whichever applicants best serve the overall public

interest -- which includes effective coverage of local news and broadly

based inclusion of local voices.

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However, an evenhanded competition between such applicants will not be

possible until the Commission is in a position to *compare LPFM*

*applicants and truly local translator applicants directly with each other.*

Unfortunately, such a direct comparison is not possible right now --

because the Commission opened the last "window" for translator

applications long before it provided an opportunity for competing

applications from aspiring LP10 licensees and other aspiring LPFM broadcasters. Indeed, most of the potential LPFM broadcasters are still awaiting an authorization from the Commission to file their applications.

Although the FCC's current "freeze" on pending translator applications

can be justified in part by the need to investigate possible abuses by various translator applicants, the "freeze" is *also* needed because a "thaw" could allow translator applicants to gain the unfair advantage of "squatters' rights" over LPFM stations. Even honest and truly local translator applicants do not merit an "unjust enrichment" that flows from keeping their LPFM competitors "off the playing field". This is *not* winning a license "fair and square". It is more like claiming land after an "Oklahoma land rush" in which half of the competitors have been held behind the starting line.

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For this reason, and others, the FCC's current "freeze" on pending translator applications should be extended until the processing of LPFM

applications has "caught up". This approach will assure that the



competition between LPFM applicants and truly local translator applicants is *simultaneous*, which is a key element in keeping the competition *evenhanded*.

### Conclusion

For the reasons set forth herein, the concerns expressed by Edward A. Schober are

not grounded in the actual policy recommendations of The Amherst Alliance.

Under the public policies advocated by The Amherst Alliance -- which was the

first media reform organization to call for translator reform, back in 1999 --

*no* translator station would be subject to automatic displacement by an LPFM

station *unless* that translator is satellite-fed or located more than 50 miles away

from the nearest point of transmission for its programming content. As for those

truly local translators which fall outside of these criteria, Amherst's proposed

policies would permit all of them to compete one-on-one with LPFM applicants --

*provided only* that the Commission's processing of LPFM applicants has first

proceeded to a point at which simultaneous comparisons can actually be made.

Whether or not Mr. Schober's arguments *might* be legitimate criticisms of *some* translator

reform proposals, they are *not* applicable to the specific translator reform proposals of

The Amherst Alliance. Therefore, Mr. Schober's arguments do not constitute valid

reasons for the Commission to disregard any of *Amherst's* policy recommendations.

**Respectfully submitted,**

**Stephanie Loveless  
President  
The Amherst Alliance  
P.O. Box 7006  
Ferndale, Michigan 48220**

**Dated: June**

**14, 2005**

I hereby certify that I have sent a copy of these Reply Comments to Edward A. Schober, P.O. Box 367, Haddon Heights, New Jersey 08035-0367.

Copies have also been sent to: (1) Clyde Scott, Jr., President, Colquitt Community Radio, Inc., 293 JC Saunders Court, Moultrie, Georgia 31768; (2) Nickolaus E. Leggett, 1736 Seagull Court, #301, Reston, Virginia 20194-4334;

and (3) Anthony Gray, Fletcher, Heald & Hildreth, P.L.C., 155 North Harbor Drive, #105, Chicago, Illinois 60601.

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Stephanie Loveless  
June 14, 2005